

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Yucaipa Mobilehome Residents' Association ("YMRA"), a California nonprofit corporation, by Len Tyler, President of YMRA, as representative of the residents of Knollwood Mobilehome Park; Edna Jenkins, a represented Member of YMRA, an individual and resident Of Knollwood Mobilehome Park; and Nancy L. Carlisle, a represented member of YMRA, an Individual and resident of Knollwood Mobilehome Park,

Complainants,

vs.

Knollwood Mobilehome Estates, Ltd., a California Partnership, doing business as Knollwood Mobilehome Estates,

Defendant.

Case 01-06-008
(Filed June 4, 2001)

**ADMINISTRATIVE LAW JUDGE'S RULING
DENYING MOTION TO RECONSIDER AND REVISE RULING**

1. Summary

Complainants move for reconsideration and revision of an Administrative Law Judge's Ruling dated November 27, 2001, granting in part defendant's motion to dismiss. Specifically, complainants seek deletion of the underscored portion of the following language in the ruling:

Knollwood also moves to dismiss those portions of the complaint that seek adjustment for capital improvements on gas and electrical components between the submeter and each individual mobilehome. Section 739.5(d) provides that the park owner is responsible for the costs of operating, maintaining and repairing the submeter system between the master-meter and the individual meters of the mobilehomes, not for the cost of maintenance between an individual meter and a mobilehome. (*Steiner v. Palm Springs Mobilehome Properties* (1997) 73 CPUC2d 369.) Complainants do not challenge this assertion.

Accordingly, the motion to dismiss is granted as to those allegations of the complaint that seek adjustment of the rent increase attributable to capital improvements of the water system and as to those allegations of the complaint that seek adjustment of the rent increase attributable to capital improvements that took place between an individual meter and a mobilehome.

Complainants contend that the Commission's decision in *Hambly v. Hillsboro Properties and City of Novato*, Decision 01-08-040 (August 23, 2001) casts doubt on the proposition that repairs between an individual meter and a mobilehome would have been paid by tenants if the tenants had been directly served by utilities, and thus arguably should not be paid by mobilehome park tenants under Pub. Util. Code § 739.5.

Defendant contends that complainant failed to raise this argument at the time that the motion to dismiss was pending. Defendant also argues that the motion to reconsider and revise the ruling is untimely, having been raised six months after the ruling was issued.

Complainants' motion is neither a motion for rehearing under Rule 85 of the Rules of Practice and Procedure (as contended by defendant) nor a motion for modification under Rule 47 (as contended by complainants). Those rules relate to Commission decisions, not rulings. Complainants' motion goes forward

under Rule 45, in which a party requests the administrative law judge to take a specific action related to a proceeding. This ruling declines in this instance to follow the 10-day filing requirement of Code of Civil Procedure § 1008(a) and finds that the motion is timely.

However, this ruling also finds that *Hambly* is or may be distinguishable from the facts of this case, and that complainants' prior reliance on that case in their opposition to the motion to dismiss went primarily to its effect on trenching costs. (See Complainants' Memorandum of Points and Authorities in Opposition to Motion to Dismiss Complaint, November 15, 2001.) Complainants contend that lack of retained counsel caused them not to cite *Hambly* in their opposition to the motion to dismiss, but this contention is contradicted by their November opposition brief, which clearly does cite *Hambly*.

What remains uncontradicted is that complainants did not challenge the assertion that a park owner is responsible for the costs of operating, maintaining and repairing the submeter system between the master-meter and the individual meters of the mobilehomes, not for the cost of maintenance between an individual meter and a mobilehome. Complainants contend that the latter costs in this case probably are *de minimus* and for that reason were not contested.

Whatever the reasons for failure to contest the motion to dismiss allegations related to these particular costs, complainants have failed to show that the Administrative Law Judge's Ruling of November 27, 2001, should be revised.

IT IS RULED that the Motion to Reconsider and Revise Ruling Partially Granting Motion to Dismiss is denied.

Dated June 18, 2002, at San Francisco, California.

/s/ GLEN WALKER

Glen Walker
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Denying Motion to Reconsider and Revise Ruling on all parties of record in this proceeding or their attorneys of record.

Dated June 18, 2002, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.